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Hon. LaShann DeArcy Hall
United States District Court Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Leyla Carranza, et. al. 20-cr-00228-LDH-SJB-16

Dear Judge DeArcy Hall:

We respectfully submit this letter as a post-hearing submission following the *Fatico* hearing, held February 25, 2025, to determine whether Leyla Carranza was aware of her co-defendants' intention to murder Andy Peralta when she led Peralta to them inside Kissena Park. In a factual dispute at sentencing, the government bears the burden by a preponderance of evidence. *United States v. Spurgeon*, 117 F3d 641, 643 (2d Cir 1997). To meet their burden the government has presented the testimony of one of Peralta's murderers and a few photos of Leyla Carranza which hold little probative value.

Jose Daniel Lazo Villa, ("Lazo") was the sole witness at the *Fatico* hearing. He made the following claims with regard Carranza's awareness of his and his co-conspirators', Juan Amaya Ramirez ("Amaya") and Oscar Flores Mejia ("Flores"), intent to murder, that:

- 1.) Carranza listened to MS-13 music when hanging out with Lazo, Amaya, and Flores; Hearing Tr. 35, February 25, 2025;
- 2.) the three used the term "chavala," in front of Carranza, including to refer to Peralta, a term widely known in El Salvador as how MS-13 gang members refer to rivals; Tr. 47:12, 17;
- 3.) Carranza was present in a car with the three of them when Lazo agreed to Flores and Amaya to participate in the murder; Tr. 47:5-18.
- 4.) Lazo showed Carranza a video that government introduced as GX 8 depicting Peralta making a making a gang sign of the MS-13 rival gang; Tr. 49:18-21; and

5.) the four of them together went to find and then agreed on the place to commit the murder. Tr. 52:4-13.

6.) Carranza knew or had reason to know that Lazo, Oscar and Juan were in MS-13 or aspiring to be. Tr. 34-38.

None of these claims are worthy of belief.

Jose Daniel Lazo Villa

There are many reasons to reject Lazo's claims. First, Lazo in the past has shown his willingness to hide his MS-13 associations from others when it suited his interests. In June of 2017, Lazo disclosed to two people that he had joined MS-13 and told both to keep it a secret. He told the first person, apparently a male relative, "Don't tell anybody, dog . . . no one." Exhibit F2. "I haven't told anyone, just you because I have a lot of trust in you." *Id.* In his other conversation the other person reassured Lazo: "No, man. I'm not gonna tell nobody;" "rest assured, man." Exhibit G2. Indeed, the need to keep MS-13 a secret from most people, at least at first, is evidenced in one of the conversations, as Lazo explained, "13 minutes of beatings . . . But none in the face." Exhibit F2, at 1-2. Lazo admitted that he lied to these two people he was close to about being "jumped in" to MS-13 to get something he wanted from them: "respect." Tr. 95-96. This is a pattern seen throughout his testimony, lying to get something he wants.

A very telling illustration of Lazo hiding his MS-13 ties and murderous intent from others was described in his testimony when the topic changed to another planned murder that was never carried out. After murdering Peralta, he, Amaya and Flores planned a second murder, this time with admittedly involving another unwitting young woman.

Q Did you and Oscar and Juan ever discuss committing another murder?

A Yes, later on, yes.

Q Was it going to happen somewhat similarly to how you all had killed Andy?

A Yes.

Tr. 65.

Q Shortly after this murder, you and Oscar and Juan plotted another one; right, to do the same thing?

A Yes.

Q But this time, you used your girlfriend Katarina, right?

A Yes.

Q You told Katrina to try to get this guy named Danny, who you thought was from 18th Street, into a secluded area at Flushing Park, right?

- A Yes.
- Q But you didn't tell your girlfriend that you were going to kill him, right?
- A No, I didn't tell her.
- Q Because you loved your girlfriend, you didn't want to get her in trouble, right?
- A Exactly.

Tr. 136:16-137:5. If Lazo can keep his murderous intent and MS-13 associations from his own girlfriend, he is certainly capable of hiding those things from his friend's girlfriend, Leyla Carranza, leading up to the Peralta murder.

This second murder conspiracy brings Lazo's claims into doubt in another way. Since Carranza was so successful in luring Peralta, why wouldn't Lazo, Amaya, and Flores simply use Carranza again for the second murder? The most rational explanation is that they knew that Carranza would refuse to do it a second time, now that she realized they were murderers. A new, unaware female participant would be more cooperative and less likely to turn to authorities before the murder was committed. As far as after the murder, in the case with Carranza, the three could be reasonably assured that she would stay silent upon her realizing they were MS-13 members. After all, Carranza was from El Salvador, the "country MS-13 is most prevalent in." Tr. 32:6-10, and would be appropriately fearful of the consequences on her life and that of her families if she reported on them. No wonder why then that "Oscar said he didn't trust [Lazo's] girlfriend not to tell other people. . . Oscar trusted Leyla because she's from El Salvador and knew how things worked." GX 3500-JLV-13, at 2, Proffer Report, November 2, 2020.

The second murder conspiracy also highlights a more mundane logical inconsistency with Lazo's claims. It is simply more advantageous from a criminal liability perspective to let as few people as possible know about their plans. If they weren't willing to tell Katrina, they equally wouldn't be willing to tell Carranza about the murder plan.

Another reason to doubt Lazo's testimony is its inconsistencies with his statements made in proffers. At his proffer meeting on September 23, 2020, Lazo describes a very different level of certainty about Carranza's knowledge of the murder plot. Then, he could only say that "Carranza seemed to know it was murder Peralta and that it was MS-13", when she was asked to lure to the park. GX 3500-JLV-5, at 3, Proffer Report, September 23, 2020.

Lazo is also inconsistent on whether Carranza was present when they found the spot to kill Peralta. According to the report of his proffer session, he stated:

Lazo[], Amaya[], and Flores[] had gone twice [to the park] the previous week to pick the spot. Then Amaya[] told Carranza where to go.

GX 3500-JLV-5, at 4. Yet in his testimony, he stated, apparently as an afterthought, that Carranza was present when they first found the spot.

- A I remember once we went to Kissena Park. And, so, we started looking for a spot and we broke up. Juan was in one area, Oscar was in another area, and I was in another area. And I remember that Juan said that he had found the spot.
- Q Was Leyla ever with you when you went looking for a spot at Kissena Park?
- A Yes.
- Q So, was she with you at the time when Juan said: I found the spot.
- A Yes.

Tr. 52: 4-13.

Lazo's testimony was inconsistent in other areas, which should cast doubt on his testimony as whole. For one he is oddly specific that the day of the murder was a Saturday, although he did not know the date that he killed Andy Peralta.

I remember that Leyla said that he had said that it was going to be on Saturday. So, we agreed on that day. And I remember that I worked that day because we had agreed that it would be on a Saturday. So, that Saturday, I came back from work and I was thinking about it.

Tr. 55:13-17, 86:14-16. But the day of the murder, April 23, 2018, was a Monday.

Lazo also claimed on the stand that Carranza had sent him a screenshot of one of her three weeklong communications with Peralta. Tr. 50:21-22. But upon viewing the first communication between Carranza and Peralta, dated April 21, 2018, Exhibit A1 & A2, he did not recognize it. Tr. 120:6-121:11. He also testified that Carranza stated she had family members in El Salvador who were MS-13. Tr. 138:5-7. But in proffer he stated she had said a family member of hers in rival gang, 18th Street. GX 3500-JLV-10, at 4.

In his testimony Lazo also claimed that Carranza told him after the fact that she had obtained Peralta's phone during her walk with him by telling Peralta that she wanted to take a picture with it. Tr. 65:12-18.

Yet the first time he discusses the crime he tells a different story: that Carranza had grabbed Peralta's phone at the moment of confrontation. GX 3500-JLV-5, at 4, ("Once Lazo[], Amaya[], and Flores[] arrived Carranza took Peralta's phone."). The proffer statement might actually be closer to the truth. In her statement to police, in a statement against penal interest, Carranza describes the moment of confrontation, when she sees Flores' knife come out for the first time and realizes more than a high school fight was about to occur. Frightened, she complied with Amaya's instruction to take Peralta's phone, and then Amaya grabbed it from her.

- Q Did you touch it?
- A Yes.
- ...
- A Because they were already there were with him, he told me take the phone.

- Q So, how did you get him to give it to you?
- A [Crying] I don't know. I only said...we both were nervous because I told him, I told him to run. I tried to help.
- ...
- Q [Agent translating] She said when I looked over and I saw that one of them had a knife . . . Cause he was afraid, and he just stood frozen.
- ...
- A And I [STAMMERS] it's when I realized and said, "No, this is not okay." I told him to run and he... [Crying] I didn't want nor knew that that was going to happen.
- Q What did you do with the phone when they gave it to you?
- A [Crying] They [grabbed] it, they [grabbed] it... later, I heard them saying that they threw it away.

Exhibit K1, 00:55:28 – 00:57:12, Exhibit K2, Transcript, at 55-58.

Incidentally, Carranza's statement about seeing Flores' knife for the first time, coincides with Lazo's testimony which was elicited by the Court:

- THE COURT: [W]here did [Flores] take [the knife] out from?"
- A From his pocket.
- Q Had it been in his pocket the entire time prior to him taking it out at this point?
- A Yes.
- THE COURT: So, you had not seen the knife at the park before then?
- A No.

Tr. 62: 4-13

At other times Lazo testimony is simply odd and sounds contrived. For example, he states that, at first, Flores had trouble thinking of a way to lure Peralta. Tr. 48:8-14. Flores then supposedly came up with the laughable idea that Lazo be the one to reach out to Peralta, until Lazo reminded him that he was a male, and therefore not likely to appeal to Peralta. *Id.* This unnecessary aside is likely Lazo attempting to distance himself from the decision to use Carranza, in an effort to craft a suitable image of himself to the Court.

Lazo is also wildly inconsistent as to how the phone was ultimately destroyed, and by whom, testifying on direct that the phone was thrown into a drain on the other side of Kissena Park by Juan and Oscar. Tr. 65: 1-6. However, in his various proffer session Lazo described three distinct versions of how (and by whom) the phone was disposed of: 1) Leyla smashed it and threw it into the reservoir; 2) Oscar and Juan left the car before they drove off and broke the phone and threw it in the reservoir; 3) Juan stopped the car and threw the phone down a sewer drain after they had already driven away from Kissena Park. Tr. at 122:3-124:13-21.

Lazo also shows his general character for untruthfulness in his minimizing language about his role in murder.

Q And what happened after Oscar said: We need to off him.

A Well, I felt that the question was a little more serious. *And since I had been smoking*, I told him yes.

Tr. 47:8-10. (Emphasis added). *Also* Tr. 55:16-19. (Discussing the murder, “[s]o, that Saturday, I came back from work and I was thinking about it. But then as I was thinking about it, I thought: Well, I’m already in it, so *I have no other choice, I just have to go.*” (Emphasis added.)

Nor is there any indication that Lazo would have a moral compunction about lying about Carranza. He displayed no emotion when testifying about Peralta’s murder, more likely a symptom of his sociopathic personality, than the unconvincing excuse of “nervousness” the government tried to provide for his disturbingly flat aspect. Tr. 19:2-3.

Lazo has also been provided with perverse incentives to fabricate against Carranza. He understands he is facing a life sentence. Tr. 40:9-11. He also understands that under his cooperation agreement, the government may help him by writing a 5k letter and helping him to obtain an S-Visa, and Witness protection if he “tells the truth.” Of course, under the terms of his agreement, it is the government who decides if he has done so. GX 3500-JLV-16, Cooperation Agreement, ¶9. On the other side of the equation, already facing a life sentence, there is little downside for him to risk perjuring himself. Just as there is apparently little downside to his taking part in an organized gang assault, with improvised weapons, on other inmates over the use of the phone. Tr. 140:16-142:7. There can be little question that Lazo violated his cooperation agreement by willingly participating in a planned assault just six months after he signed it, but apparently the government is unconcerned, even after an incident involving Lazo refusing to follow directions where the guards “fell on top of him” as opposed to him fighting with them. Tr. 142:7-23.

Lazo admittedly lied to the FBI when he denied he was in a gang while they were arresting him inside his house, and he refused to allow them to search his room where he kept an MS-13 poster on his wall. Tr 137:15-25. Although according to him he was “not really active” in the gang anymore and “could not recall” if he committed any other crimes from the time he conspired to kill a man in Flushing Park in 2018, until he was arrested two years later. Tr 137:10-14. Unlike Carranza [REDACTED] he refused to speak to the agents immediately after his arrest, only coming in for a proffer in September of 2020, after he was able to view the overwhelming evidence against him. Tr. 119:7-12.

Additionally, Lazo cold heartedly admitted taking Andy Peralta’s \$40 and the condoms tucked away in his pocket after he was bludgeoned and stabbed to death. Tr. 63:15-16. However, he refused to admit to pulling down his pants and underpants as he was lied face down in a puddle, the final act of humiliation for this person that Lazo and his friends executed for flashing

the 18th Street for all of three seconds while sitting in the backseat of a car with friends listening to Reggaeton music and looking at his phone. Tr. 87:20, 93:1-9. Rather he insisted that, “the ground pulled down his pants.” Tr. 136:1-15.

It is also worth noting that Lazo’s testimony about Carranza being present for the murder and MS-13 conversations, is uncorroborated by either physical evidence, such as texts, screenshots, or FB messages or statements from the other defendants. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Importantly, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

If Carranza was in on the plan to kill Peralta, why would she be surprised to find out he was dead? The most reasonable conclusion is that it was easier for Lazo, Amaya, and Flores to keep Carranza ignorant of their true intentions. As Carranza explained,

[Crying] But I...they only told me that they were going to like fight with him or something like that. They never told me, "I'm going to do this." Because if I knew that was going to happen, I would've told my mom everything, but I didn't know they were going to do that.

Exhibit K1 at 00:37:11; Exhibit K2 at 35. To this outpouring of raw emotion, even the seasoned agent responded, "That makes sense;" "*I believe you about that.*" *Id.* (emphasis added).

Lazo, Amaya, and Flores knew how to present themselves to Leyla as typical high school aged males who easily take offense.

They told me, "I don't like him." Stupidities...I saw it like a stupid thing from school. I was going to the high school, you know how high schools are, it was some kid's stupidity, "Oh, I don't like that person and I don't like that other person." But I never imagined that they were doing things like that, nor that they were in gangs because they were classmates.

...

They were classmates. And I...Juan was my first boyfriend. . . I was a stupid girl who had fallen in love with him.

Exhibit K1 at 00:39:43; Exhibit K2 at 38-39.

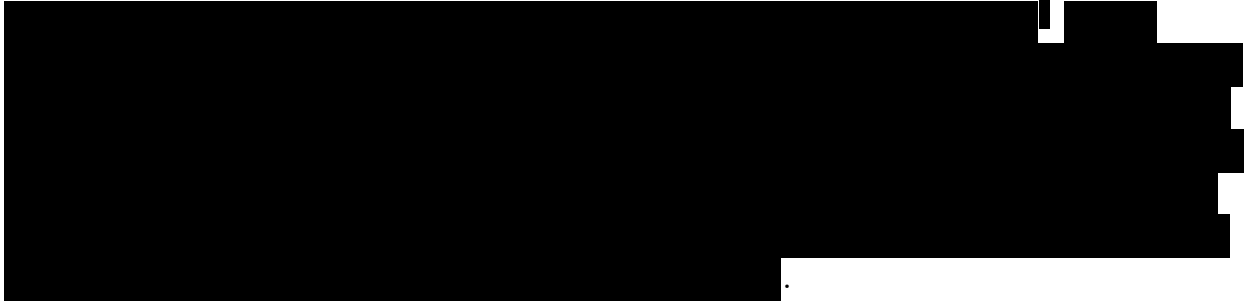
I thought it was going to be a silly fight like they did in school.

Exhibit K1 at 00:38:38; Exhibit K2 at 36.

This was not unreasonable for Carranza to think, especially when Lazo himself had beaten, and not murdered, another boy at school before the murder for which he got suspended for 3 weeks and hid the fact that it was gang-related from his parents. Tr. 85:3-14.

Of the four people present when Andy Peralta was killed the Court has heard from Lazo in the form of sworn testimony, as well as previously made proffer statements

[REDACTED]



Government's Photo Exhibits

To bolster Lazo's dubious testimony, the government offers photos of Carranza socializing with Amaya, Lazo, and Flores and others around the time of the incident. None of these photos provide proof that Carranza knew about the murder before it took place. In fact, two of the photos provide proof of her lack of knowledge and naivety about the people she was surrounded by. The two photos taken in April 2018 before the murder, GX1 and GX3, show Carranza making a hand gesture with her thumb out, which is identical hand gesture made by the fourth person, "Chi" in photo GX 1, which Lazo himself described as a normal non-gang related hand gesture. The Court seized on this important point when it questioned Lazo directly:

The Court: Sorry counsel, forgive me, the gentleman all the way to the right?

Ms. Moore: Chi

The Court: Chi is making a motion with his hand, a sign. What sign is that?

Lazo: Well, *it's a normal sign, like, for a picture.*

The Court: Does that *represent any gang affiliation, any gang sign, or it just has no relationship to MS-13 or does it?*

Lazo: *It's any sign. It doesn't really represent the gang.*

Tr. 68:19-69:3, (emphasis added).

The government may also point to GX21, an image of Carranza and others retrieved from Amaya's iCloud with an overlay of emojis reminiscent of the MS-13 hand signs. But there is no way to tell whether the hand emojis were not added by Amaya himself, and in any case, the photo is dated after the murder. See GX11, Report, at 3, with image date May 23, 2018. Nor can the government show a single photo of Carranza, before or after the murder, making the MS-13 hand sign correctly, rather she consistently made the same sign as "Chi" with her thumb prominently extended, like the popular emoji.

To the extent the government attempts to argue that Carranza appears carefree in the photos dated after the murder, this appearance should be taken with a grain of salt. After Peralta's murder, Carranza was hardly in a position to show her displeasure in front of her then-

¹ The defense concedes that Amaya gave a false explanation as to why Peralta met the female accomplice (Carranza), as he mentioned it was to smoke or buy weed as opposed to a sexual encounter.

boyfriend and his friends, whom she now realized they were murderous MS-13 gang members, out of fear of them suspecting she might go to the police.

I argued with Juan, and I told him I was going to tell my mom [about the murder]. And he told me not to because if I said something, he started threatening me. Because I wanted to speak out, but I couldn't because I was scared. He was telling me, "they are going to put you in jail, and they will kill you in jail." I didn't want to...[Cries].

Exhibit K2, at 37.

Prior to the murder, Carranza had no indication that would have led a reasonable person in her position to suspect that her then boyfriend, Amaya and his friends, Lazo and Flores, were MS-13 aspirants. Carranza had only been dating Amaya for two months at the time of the murder, still living with her mother. *See* Exhibits I, I1, I2, J1, J2 with Photos with GPS coordinates at home address; Exhibit H, Carranza high school transcript with home address, and Lazo testimony wherein he admitted that he was unsure if she lived with her mother in April of 2018 as she also spent time with Juan. Tr. 105-106.

Amaya, Lazo and Flores did not have any MS-13 tattoos, like the MS-13 members she was used to seeing in her home country, or even that Lazo testified about seeing in MS-13 videos. The Court pointedly asked Lazo at the end of the People's direct:

The Court: Do you have *any MS tattoos*?
Lazo: *No*.
The Court: Do you know about Oscar?
Lazo: *Well, when I met him he didn't. I don't know about now*.
The Court: And Juan?
Lazo: *No, I don't think so*.

Tr. 74:25-75:6 emphasis added. *But see* Tr. 25:3-6 ("In the [MS-13] videos, I could see people who had tattoos or they were throwing or flashing signs and that kind of stuff. Q What kind of tattoos? A Like MS, that was the main thing.").

Lazo's testimony regarding how long Leyla and Juan were together was successfully challenged on cross-examination. On direct Lazo claimed that Juan "formalized" relationship with Leyla in the summer of 2017. Tr. 34: 16-20. However, on cross-examination he remembered things much differently, and likely more accurately:

Mr. Farrell: Okay. So, now the question is how many months passed from that meeting where you and Oscar acted like you didn't know Leyla 'till you say she was in the car and Oscar was asking her to get Andy to the park?
Lazo: Well, I don't remember exactly how long, but-- well, *maybe two months*.

Mr. Farrell: So, two months after you and Oscar act like you don't know her, *just in two months Oscar is asking her to participate in a murder; is that right? Do I have it right?*

Lazo: Yes.

Tr.116:20-117:3.

This exchange is corroborated by Leyla who says in her videotaped statement: “Well, no, because like I told you *I barely knew Juan at that time*. . . I was getting to know Juan at that moment. And just when. . . during that time I got pregnant. That's why I got together with Juan, *not because I had long relationship with him*.” Exhibit K1 at 00:21:48; Exhibit K2 at 17 (emphasis added).

Even the two people Lazo told about joining MS-13, didn't think he was the type to join such a violent gang. “Damn, you really do stupid things, man. Now you can't ever get out; they will chase after you for life.” Exhibit F2, at 2. The other person said, “I didn't think you'd be in the big gangs,” Exhibit G2, at 1, to which Lazo responded “I myself did not think [I'd be] reaching [this] far.” *Id.* If even Lazo and his own friends didn't view him as the MS-13 type, how was Carranza supposed to?

In her interrogation, while Carranza at first held back, denied involvement, and then minimized her involvement denying ever meeting Andy in person. However, she ultimately confesses to the role she played in leading to Peralta, albeit unknowingly, to his death. She speaks as someone still horrified by the consequences of her actions that she failed to foresee:

Forgive me, Forgive me. In am not [UI] like that. I am not that kind of person. I swear, on my God that I am not like that. And I couldn't take it anymore [in my chest].

Exhibit K1, at 1:23:14, Exhibit K2, at 89. She adds, “my dad won't forgive me for this. [Cries]. . . He won't forgive me. Exhibit K1 at 01:20:45; Exhibit K2 at 86-87. “[Crying] . . . all the time I...I asked God for forgiveness and to look out for my child because I wasn't feeling well.” Exhibit K1 at 00:39:41; Exhibit K2 at 37. These confessions are not the word of someone who ever had the intent to help cause the murder of an innocent person. By all accounts, although the Government is quick to dismiss Leyla Caranza's testimony as irrelevant and self-serving, the seasoned agent disagreed as he told her after her emotional appeal for forgiveness:

You did the right thing. And when it comes to the [UI] to tell the truth is always the right decision. When it comes down to something like this, anybody can interpret the situation to see that your relationship with Juan causes a lot of trouble in your life. *And you told the truth, you did the right thing.*

Exhibit K1, at 1:23:14, Exhibit K2 at 89.

Conclusion

WHEREFORE, for the above stated reasons, the Court should find that the government has not met its burden of proving that Leyla Carranza was aware of the intent to murder Peralta when she followed her co-defendants' plan to bring Peralta to the park.

Respectfully submitted,

/s/

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cc: VIA ECF & Email
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